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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT PAPER NUMBER

3623

DATE MAILED: 05/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/407,569

Applicant(s)

SHEPARD ET AL.

Examiner

Akiba K Robinson-Boyce

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MLW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 107-161 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 107-161 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. In response to the communication received on 2/17/04, the following is a final office action. Claims 1-106 have been cancelled. Claims 107-161 have been added. Claims 107-161 remain pending in this application and have been examined on the merits. Claims 107-161 are rejected. The previous rejection has been withdrawn and the following reflects the claims as amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 107-110, 112, 115, 116, 121-129, 131, 134, 135, 140-147, 149, 152, 153, 158-161 are rejected under 35 U.S.C. 102(b) as being anticipated by Zaltman (US 5,436,830).

As per claim 107, 125, 144, Zaltman discloses:

Presenting a sensory stimulus representation through a computer system to a plurality of customers, the sensory stimulus representation embodying one or more sensory cues that influence human behavior/present a sensory stimulus

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representation through a computer system, (Col. 3, lines 16-20, [sensory stimuli used to understand customer thinking, where the pictures represent the cues]).

Inputting by the customer into the computer system classification information representing a response elicited in the customers in response to the one or more sensory cues presented to the customers/receive as input form the customers classification information, (col. 2, lines 10-13, [sensory input elicited], w/ col. 4, lines 31-36, [using keyboard input to designate groups]).

Aggregating the classification information input by the customers to derive aggregated classification information representative of customer perceptions/aggregate the classification information input by the customers, (Col. 9, lines 50-54, [aggregating into a consensus map]);

Correlating the aggregated classification information with the one or more sensory cues using the computer system/correlate the aggregated classification information, (col. 12, lines 14-16, [eliciting and storing baseline image that correlates closest with research topic]);

Whereby the computer system infers, as a function of a correlation of the aggregated classification information and the one or more sensory cues, a relationship between the sensory stimulus representations and the customer perceptions that is potentially not discernable to a human researcher, (col. 12, lines 23-25, [generating a graphical representation of relationships]).

As per claims 108, 127, 145, Zaltman discloses:

Further comprising identifying at least one cue/sensory cue perceived by the customer in response to the presented sensory stimulus representation, the

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identified at least one sensory cue relating to one or more elements of the presented sensory stimulus representation/wherein the computer system is further configured to identify at least one sensory cue perceived by the customers in response to the presented sensory stimulus representation, the identified at least one cue relating to one or more elements of the presented sensory stimulus representation, (Col. 4, lines 21-27, [paralanguage that consist of cues or factors]).

As per claims 109, 126, 146, Zaltman discloses:

Further comprising receiving in the computer system, a database comprising a plurality of particular sensory stimulus representations that are configurable by the user/further comprising a data storage system including one or more data storage devices coupled thereto, wherein the data storage system comprises a database coupled to the computer system and configured to store a plurality of sensory stimulus representations, (Col. 4, lines 38-44, [file or bank of sensory images stored that represent sounds, colors, etc., where customer is able to add descriptions to the file]).

As per claims 110, 128, 129, 147, Zaltman discloses:

Wherein the database is created by the user/wherein the computer system is further configured to receive a database comprising a plurality of sensory stimulus representations that are configurable by a user, (Col. 4, lines 43-44, [customer adding description to file]).

As per claims 112, 131, 149, Zaltman discloses:

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Wherein the/each sensory stimulus representation in the database is associated with an agent that identifies relationships between two or more sensory stimulus representations stored in the database, (Col. 8, lines 52-60, [where constructs are graphically linked based on relationships established by the customer]).

As per claims 115, 134, 152, Zaltman discloses:

Further comprising receiving, in the computer system, responses from the customers related to one or more of the sensory stimulus representations/further configured to receive responses from the customers related to one or more of the sensory stimulus representations, (Col. 8, lines 14-26, [response to the particular customer]).

As per claims 116, 135, 153, Zaltman discloses:

Wherein at least one response comprises a description of at least one of the sensory stimulus representations in relation to a desired perception, (Col. 8, lines 27-44, [customer describing how he/she thinks and illustrating thoughts with images]).

As per claims 121, 140, 158, Zaltman discloses:

Creating/create a set of sensory stimulus concepts that leverage the at least one cue perceived by the customer in response to the presented sensory stimulus representation, (Col. 4, lines 38-45, [sensory images that are represented by an array of sounds, colors, shapes and descriptions of smells, touches, etc.]);

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Outputting/output from the computer system a perceptual map using the output device, (Col. 12, lines 26-31, [deriving and visually presenting a consensus map]).

Receiving/receive input from the user regarding correlation of the set of sensory stimulus concepts with the perceptual map, (Col. 12, lines 14-16, [eliciting and storing of a baseline image from the consumer that correlates closest with the topic]).

As per claims 122, 141, 159, Zaltman discloses:

Analyzing/analyze the correlation of the set of sensory stimulus concepts with the perceptual map, and refining the correlation of the set of sensory stimulus concepts with the perceptual map as a function of the analysis, (Col. 12, lines 14-30, [eliciting and storing images from the consumer that correlate closest with the research topic and deriving a consensus map based on images and constructs]).

As per claim 123, 142, 160, Zaltman discloses:

Further comprising receiving the/wherein the computer system is further configured to receive the classification information from at least one customer using a computer terminal in communication with the computer system via a network, (Col. 6, line 54-col. 7, line 7, central processing unit w/ keyboard]).

As per claims 124, 143, 161, Zaltman discloses:

Wherein the sensory stimulus representation comprises a visual element, (Abstract, lines 7-9, [files or images that pictorially represent important sensory aspects]).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 111, 113, 114, 118, 130, 132-133, 137, 148, 150, 151, 155, are rejected under 35 U.S.C. 103(a) as being unpatentable over Zaltman (US 5,436,830) as applied to claim 1 above, and further in view of Bell (US 5,424,945).

As per claims 113, 132, 150, Zaltman fails to disclose wherein the classification information comprises ratings further comprising determining an average rating for a sensory stimulus representation as a function of the ratings, but does disclose sensory stimulus in Col. 3, lines 16-20.

However, Bell discloses:

Wherein the classification information comprises ratings further comprising determining an average rating for a sensory stimulus representation as a function of the ratings, (Col. 16, lines 29-46, [represented by collectively taking the series of objective descriptions of the appearance of a document into account to yield point scores, in this case the point scores represent the average rating]). Bell discloses this limitation in an analogous art for the purpose of showing that stimulus can be rated at different levels.

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It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to comprise determining an average rating for a sensory stimulus representation as a function of the ratings with the motivation of determining an average value with respect to how the users of the system rate the sensory stimuli.

As per claim 114, 133, 151, Zaltman fails to disclose the classification information comprises ratings, and further comprise determining a ranking of one or more of the sensory stimulus representations as a function of the ratings, but does disclose sensory stimulus in Col. 3, lines 16-20.

However, Bell discloses:

the classification information comprises ratings, (Col. 16, lines 29-46, [represented by point scores]); and

and further comprise determining a ranking of one or more of the sensory stimulus representations as a function of the rating, (Col. 8, lines 50-53, [ranking according to degree of preference]). Bell discloses these limitations in an analogous art for the purpose of showing that the ratings can be represented in a certain order.

It would have been obvious to one of ordinary skill in the art to processes the rating in order to identify a ranking of one or more of the outputted particular visual representations with the motivation of identifying the level of importance of particular reaction.

As per claims 111, 118, 130, 137, 148, 155, Zaltman fails to disclose wherein the database is created by a third party/further comprising receiving a

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response from a third party related to one or more of the sensory stimulus representations, but does disclose receiving a response from a customer in col. 4, lines 31-36.

However, Bell discloses:

Further comprising wherein the database is created by a third party/receiving a response from a third party related to one or more of the sensory stimulus representations, (col. 15, lines 36-42, [graphic designer overriding the system]). Bell discloses this limitation in an analogous art for the purpose of showing that inputs from a third party such as a graphic designer can also be used.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to receive a response from a third party with the motivation of using responses from other sources in order to give a wide variety of responses.

6. Claims 117, 119, 120, 136, 138, 139, 154, 156, 157, are rejected under 35 U.S.C. 103(a) as being unpatentable over Zaltman (US 5,436,830) as applied to claim 1 above, and further in view of Bell (US 5,424,945), and Frost (US 5,041,972).

As per claim 117, 136, 154, neither Zaltman nor Bell disclose a rationale for ranking a set of one or more sensory stimulus representations against a specific desired perception and an opposite perception the following, but does disclose sensory stimulus in Col. 3, lines 16-20, and Col. 4, lines 61-66 and opposite representations in Col. 4, line 67-Col. 5, line 2.

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However Frost discloses:

A rationale for ranking a set of one or more sensory stimulus representations against a specific desired perception and an opposite perception, (Col. 8, lines 50-53, [where rationale is represented by the expressed degree of preference]). Frost discloses this limitation in an analogous art for the purpose of showing the reason why a user may have ranked the sensory stimulus in a certain order.

It would have been obvious to one of ordinary skill in the art to have a rationale for ranking a set of one or more outputted particular visual representations against a specific desired perception and any one of its opposite with the motivation of determining the reason why certain visual representations were chosen in a particular order.

As per claims 119, 138, 156, Zaltman fails to disclose processing/process the classification information, but does disclose classifying in col. 2, lines 10-13, [sensory input elicited], w/ col. 4, lines 31-36, [using keyboard input to designate groups]).

However, Bell discloses:

Processing/process the classification information, (Col. 24, lines 48-52, [applying a point-score to the answers provided]

outputting from the computer system an initial desired perception and different sensory stimulus representations to be chosen by one or more customers as representatives that reinforce the initial desired perception; and (Col. 24, lines 52-54, [yielding]). Bell discloses these limitations in an analogous

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art for the purpose of showing that once the classification information is processed, customers have the ability to manipulate this information.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to process the classification information and output an initial desired perception and different sensory stimulus representations with the motivation of allowing the customer to visualize and reinforce the processed information.

Neither Zaltman not Bell disclose collecting customer observations and rationale for ranking of the chosen sensory stimulus representations, but Zaltman does disclose sensory stimulus in Col. 3, lines 16-20.

However Frost discloses:

Collecting customer observations and rationale for ranking of the chosen sensory stimulus representations, (Col. 8, lines 45-53, [where the rationale is represented by the degree of preference]). Frost discloses this limitation in an analogous art for the purpose of showing the reason why a customer may have ranked a representation.

It would have been obvious to one of ordinary skill in the art to collect customer observations and rationale for ranking the chosen visual representations with the motivation of determining the meaning of why certain representations were chosen.

As per claim 120, 139, 157, Zaltman fails to disclose further comprising refining the initial desired perception to represent a more clearly focused desired perception, but does disclose eliciting customer input in the abstract, lines 1-2.

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However, Bell discloses:

further comprising refining the initial desired perception to represent a more clearly focused desired perception, (Col. 18, line 22-Col. 19, line 28, [determining which tests are most profitably applied to a given document]). Bell discloses this limitation in an analogous art for the purpose of determining the profitability of specific documents.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to refine the initial desired perception to represent a more clearly focused desired perception with the motivation of focusing on a specific perception desirable to the customer.

Response to Arguments

7. Applicant's arguments with respect to claims 107-161 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory


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action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 703-305-1340. The examiner can normally be reached on Monday through Friday, 8:30 am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.


A. R. B.
May 4, 2004


TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600